

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN**

BRIGHTON OPTICAL, INC., et al,  
Plaintiffs

v

VISION SERVICE PLAN,  
Defendant

**Hon. Nancy G. Edmunds  
Civil Action No. 03-74974**

**EXHIBITS TO PLAINTIFFS' SEPARATE STATEMENT OF MATERIAL FACTS  
AS TO WHICH THERE IS A GENUINE ISSUE TO BE TRIED AND  
SUPPORTING EVIDENCE IN OPPOSITION TO  
MOTION FOR SUMMARY JUDGMENT**

1. Excerpts of 3/9/05 Deposition of John Birchmeier, O.D.
2. Excerpts of 3/7/05 Deposition of Eric Siesel, O.D.
3. Excerpts of 3/8/05 Deposition of Lori Wirth.
4. Member Doctor Agreement and Signature Pages.
5. Re-Credentialing Applications.
6. Excerpts of VSP's Answer to Complaint in *Hagan v. Vision Service Plan*, Case No. 05-72517, U.S.D.C. E.Mich (Edmunds, J.).
7. Excerpts of 4/12/05 Deposition of Cheryl Johnson.
8. Excerpts of 1/28/05 Deposition of Harold Curtin, O.D.
9. Excerpts of 3/9/05 Deposition of Randy Watsky, O.D.
10. 2/9/04 Affidavit of Patrick Dandino, Esq.
11. 9/12/05 Affidavit of Jonathan Raven, Esq.
12. Excerpts of 4/7/05 Deposition of Charles Males.
13. Excerpts of 4/7/05 Deposition of James Lies.
14. Excerpts of 4/11/05 Deposition of Denis Humphreys, O.D.
15. VSP's Termination letters to the Plaintiffs.

16. Exhibit 5 to 1/21/05 Deposition of Jeffrey Vellenga.
17. VSP's Supplemental Response to Interrogatories.
18. VSP's Supplemental Response to RPOD 61.
19. 7/20/05 Supplemental Production of Documents.
20. Vision Source Website Printouts.
21. List of Vision Source/VSP Affiliated Doctors.
22. 1/28/99 Restated Bylaws of Vision Service Plan.
23. Board Meeting Minutes, 8/15/95 e-mail, 9/20/95 memorandum, 10/20/95 letter, 10/26/95 letters, 11/7/95 memorandum and 10/1/97 memorandum.
24. Excerpts of 1/21/05 Deposition of Jeffrey Vellenga.
25. Excerpts of 2/8/05 Deposition of Janice Wilson.
26. Excerpts of 2/8/05 Deposition of Jeffrey Vellenga.
27. 8/1/03 Memorandum of Jeffrey Vellenga re: Nichols Optical, Inc.
28. 8/27/04 letter from OptimEyes.
29. 11/22/95 letter and Excerpts of 1/21/05 Deposition of Linda Hampton.
30. 10/12/95 DOC memorandum.
31. 11/17/04 letter from Raoul Renaud, Esq.
32. VSP's Supplemental Answer to Request for Admissions 85 and 92.
33. VSP's Answer and Supplemental Answer to RPOD 24.
34. VSP website prints.
35. Exhibit 5 to 1/21/05 Deposition of Linda Hampton.
36. Excerpt of 7/27/04 Deposition of Cheryl Johnson in *David Hardy v. Vision Service Plan*, Montana 1<sup>st</sup> Judicial District, Lewis & Clark Co., No. 2003-285.
37. 12/10/03 Memorandum of Jeffrey Vellenga re: John Birchmeier, O.D.
38. Privilege Log, 1/13/05 Renaud e-mails.

39. Exhibit 42 to 2/8/05 Deposition of Jeffrey Vellenga.
40. 7/21/05 DOC Franchise Agreement.
41. 2/7/01 DOC Franchise Agreement.
42. 1996 NuVision Franchise Agreement.
43. 12/2/96 letter from Jeffrey Vellenga.
44. 12/9/96 and 2/28/97 letters from AVC/NuVision, Inc.
45. Pearle Franchise Agreements.
46. 8/29/00 letter from Edward Grant, O.D.
47. 2/25/01 Memorandum of K. O'Neill.
48. 11/14/02 and 3/10/03 letters to Dr. Birchmeier;  
11/5/02 and 1/9/03 letters to Dr. Nichols.
49. 11/24/04 letter from Raoul Renaud, Esq.
50. DOC corporate letters (Webb, Watsky).
51. Excerpt of 7/26/04 Deposition of Susan Egbert in *David Hardy v. Vision Service Plan*, Montana 1<sup>st</sup> Judicial District, Lewis & Clark Co., No. 2003-285.
52. 4/30/01 letter to P. Hamel, O.D.
53. Excerpts of 4/13/05 Deposition of Diane Parenti.
54. Excerpts of 4/14/05 Deposition of Diane Parenti.
55. Excerpts of 11/6/03 Siesel Formal Hearing Transcript.
56. Excerpts of 11/6/03 Nichols Formal Hearing Transcript.
57. Excerpts of 11/6/03 Birchmeier Formal Hearing Transcript.
58. 1/29/04 Webb Formal Hearing Transcript.
59. Excerpts of 2/25/05 Watsky Formal Hearing Transcript.
60. VSP Responses to Document Requests 9, 10 and 11.
61. 1099 Forms of Denis Humphreys, O.D.

62. VSP Fair Hearing Procedure.
63. VSP correspondence re: discovery requests.
64. Letter of 5/12/98 and 4/14/95 credentialing app (Webb).
65. VSP Formal Hearing Script.
66. Excerpt from Watsky Formal Hearing Record.
67. VSP Hearing Officer Guidebook.
68. Excerpts of VSP Discovery Responses.
69. Excerpts of 1/28/05 Deposition of Ralph Eaves, O.D.
70. Excerpts of 3/7/05 Deposition of Gerald Skiba, II, O.D.
71. Excerpts of 4/6/05 Deposition of Patrick Dandino, Esq.
72. Excerpts of 3/10/05 Deposition of Elizabeth Nichols, O.D.
73. Excerpts of 3/8/05 Deposition of David Cannon, O.D.
74. Excerpts of 3/8/05 Deposition of Douglas Schneider, O.D.
75. Excerpts of 2/28/05 Deposition of Shannon Fowler, O.D.
76. Excerpts of 3/10/05 Deposition of Julie Runstrom, O.D.
77. 11/03 VSP Eyecare Consumer Study.
78. 2/23/05 Affidavit of Lori Wirth.
79. VSP Membership Criteria Handbook.
80. Vision Source Franchise Agreement.
81. 6/21/04-6/22/04 VSP Board Meeting Minutes.
82. 3/4/04 Affidavit of S. Egbert in Support of VSP's Brief in Opposition to Plaintiffs' Motion for a Preliminary Injunction filed in *Today's Vision Franchising Corp., et al, v. Vision Service Plan*, U.S.D.C. S. District of Texas, Houston Div, No. H-04-0664.
83. Opposition of VSP to Motion for Preliminary Injunction filed in Today's Vision litigation.
84. Today's Vision VSP Member Doctor print-outs.

- 85. Internal VSP Guidelines.
- 86. Massachusetts MDA Addendum.
- 87. VSP Fee Schedules.
- 88. VSP's Response to Request for Production of Documents 108.
- 89. Newsletter, "The Rise of Consumerism in Eyecare".